

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Fred L. Perry, D.D.S., Amherst Dental Group

Date application filed with the Town Clerk: July 31, 2007

Nature of request: A Special Permit to transfer ownership of the property and continued use of the dentistry suite and caretaker apartment from the current owner Jeffrey I. Eisman, D.M.D to the applicant under condition #9 of Special Permit ZBA FY80-0095, and to transfer all existing Special Permits ZBA FY80-0095, FY82-0046, FY96-0047, FY98-0008, FY2003-00004 and FY2004-00023 to the applicant

Address: 650 Main Street (Map 14B, Parcel 103, R-G Zoning District)

Legal notice: Published on August 22 and 29, 2007 in the Daily Hampshire Gazette and sent to abutters on August 20, 2007

Board members: Barbara Ford, Russell Frank and Jane Ashby

Submissions: The petitioner submitted the following:

- A site plan showing the 2004 addition to the dental offices, drawn by R. Phinney, dated 12/1/03 and approved by the ZBA for Special Permit FY2004-00023;
- A floor plan of the first floor dental offices, drawn by Kuhn-Riddle Architects;
- A Management Plan for the building and dental offices.

Other submissions were:

- Copies of conditions of the five previous ZBA Special Permits that dealt with the dentistry practice at the existing location – FY82-46, FY95-0047, FY98-0008, FY2003-00004, FY2004-00023;
- A memo from the zoning assistant outlining particulars of the original permit and the subsequent expansions, dated 9/4/07;
- A memo from the Fire Department stating that there is no impact on emergency services, dated 8/8/07.

Site Visit: September 5, 2007

The Board met with Gail Prentiss, office manager of the Amherst Dental Group, who showed the ZBA the location of the building's two additions, the business identification sign next to the driveway and close to Main Street, the upstairs apartment, the parking area, the fence around the parking and the trees planted outside the fence that provide additional screening for the abutting residential area. The Board also observed the residential appearance of the building, the careful landscaping in the front of the building, and the overgrown trees on the abutting property to the east that partially block the sign next to the driveway.

Public Hearing: September 6, 2007

The ZBA Chair Ms. Ford began the hearing by declaring that all members of the ZBA panel are patients of

the Amherst Dental Group, but the association will not influence the Board's decision on the Special Permit application.

The applicant, Dr. Fred Perry, was represented by Attorney Spencer Bates at the hearing. Both Dr. Perry and Dr. Jeffrey Eisman, the current owner of the property, were present as well.

Mr. Bates said that the application is for a change of ownership of the property, which is required by condition #9 of the original Special Permit, ZBA FY80-95. Everything else about the business and property will stay the same, he said. The number of dentists will remain at four, and there are no plans for further expansion of either the practice or the building.

Ms. Ford asked about the apartment plans. The petitioner said that the apartment is located on the second floor of the original house. It is 1000 square feet in size, has three bedrooms and is occupied by three tenants. It is a caretaker apartment, and the tenants are there in order to keep the property safe.

Ms. Ford asked about the identification sign along the driveway, close to Main Street. She said that the overhang of the trees to the east make the sign less visible, particularly for drivers coming from the east. Dr. Eisman stated there are no plans to change the sign at present, and that he would ask the property owner next door to trim the tree branches in order to make the sign more visible.

Ms. Ford asked about the second office suite, which was permitted in the first Special Permit. Dr. Eisman responded that originally an oral surgeon had his office in the basement, but he left. Now there is just one dental practice, and there is no intention of having another business in the building. The Amherst Dental Group occupies the entire building except for the caretaker apartment.

The Board had no further questions concerning the change of ownership or about the use of the property. There was no one present from the public with questions or concerns.

Mr. Frank made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board noted the excellent upkeep of the property and building, and had no objections to the change of ownership from Dr. Eisman to Dr. Perry.

The Board spent the remainder of the public meeting reviewing conditions of the five previous Special Permits and determining their relevance for the new Special Permit issued to Dr. Perry.

Ms. Ashby made a motion to accept the conditions as proposed. Mr. Frank seconded the motion and the vote was unanimous to accept the conditions of the Special Permit as proposed.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the dental practice has existed for over 25 years at that location with no complaints from the adjoining residential neighborhood.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because no outside noise is generated from the

dentistry offices and the parking area is well shielded by both a fence and evergreens.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the parking is marked and adequate, the driveway is two-way, and there is a sidewalk along Main Street. Also there is handicapped accessible parking close to the building and a ramp into the dental offices.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the interior of the building houses the dental practice, and the exterior parking area is well marked, separating staff and patient areas.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because 41 parking spaces are clearly delineated in the parking area, adequate for a practice of four dentists. The identification sign is approximately 12 square feet, with downward lighting, allowed under Section 8.101 of the Zoning Bylaw, and approved with the original Special Permit, ZBA FY80-35.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes; the approved Management Plan states that a waste company picks up the refuse and recyclables, and Stericycle, Inc. picks up the medical waste. A dumpster is located behind the building.

10.392 and 10.393 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because the building is preserved to look like a residence, with well maintained landscaping in the front of the building. The parking is screened by both a fence and evergreens. Exterior lighting is downcast, as required by Special Permit ZBA FY2004-00023.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because, even with the addition, the house is residential in appearance and is smaller than the very large “Smith” house that abuts to the east.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Frank made a motion to APPROVE the Special Permit application, with conditions. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Fred L. Perry D.D.S. to transfer ownership of the property and continued use of the dentistry suite and caretaker apartment from the former owner Jeffrey I. Eisman, D.M.D to the applicant according to condition #9 of Special Permit ZBA FY80-0095, and to transfer all existing Special Permits ZBA FY80-0095, FY82-0046, FY96-0047, FY98-0008, FY2003-00004 and FY2004-00023 to the applicant, on the premises at 650 Main Street (Map 14B, Parcel 103, R-G Zoning District), with conditions.

BARBARA FORD

RUSSELL FRANK

JANE ASHBY

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____, 2007.
NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Fred L. Perry D.D.S. to transfer ownership of the property and continued use of the dentistry suite and caretaker apartment from the former owner Jeffrey I. Eisman, D.M.D to the applicant according to condition #9 of Special Permit ZBA FY80-0095, and to transfer all existing Special Permits ZBA FY80-0095, FY82-0046, FY96-0047, FY98-0008, FY2003-00004 and FY2004-00023 to the applicant, on the premises at 650 Main Street (Map 14B, Parcel 103, R-G Zoning District), subject to the following conditions:

1. Parking spaces shall be located as shown on the site plan presented to the Board and formerly approved on January 15, 2004 by the Board at a public meeting.
2. The landscaping shall be maintained as shown on the plan formerly approved by the Board at a public meeting on January 15, 2004.
3. Individual parking places shall be clearly marked.
4. Parking spaces numbered 1 through 7 on the plan, located on the west side of the lot, shall be marked utilizing the raised landscaped berm. Handicapped spaces shall meet AAB/ADA code and be clearly marked as such.
5. Signs for one-way traffic flow shall be clear and visible at all times.
6. There shall be no additional lighting installed other than that required by the Building Code. Any lighting that is installed shall be downward facing and shall not spill onto adjacent properties.
7. Offices on the second floor are restricted to use as private offices for the dentistry practice. They shall not be used as treatment rooms in any way.
8. There shall be no more than one dental suite on the premises.
9. There shall be no more than four dentists working on the site at any time.
10. The operations of the dental office shall be as described in the Management Plan approved by the Board at the public meeting on September 6, 2007.
11. Any changes in signage shall be submitted for review and approval by the Board at a public meeting.
12. This permit shall expire upon change of ownership of the property.

BARBARA FORD, Chair
Amherst Zoning Board of Appeals

DATE